



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Adopt Resolution Approving Sale of 1956 Galion Road Grader and Use Agreement with A.M. Stephens, Inc., of Lodi

MEETING DATE: December 17, 2008

PREPARED BY: Public Works Director

RECOMMENDED ACTION: Adopt a resolution approving the sale of a 1956 Galion road grader and authorizing the City Manager to execute a use agreement with A.M. Stephens, Inc., of Lodi.

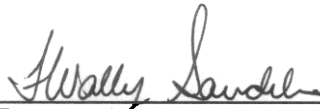
BACKGROUND INFORMATION: The Streets and Drainage Division has a unique opportunity to remove a seldom-used but necessary piece of equipment from the fleet, and still have an "as needed right of use. The 1956 Galion road grader (Vehicle Unit No. 04-029) is used just a few times a year but has proven to be a valuable asset when needed. A.M. Stephens, Inc., of Lodi, proposed a Use Agreement by which they would take possession of the grader, provide all necessary maintenance, and make the grader available for the City's use when needed at no cost. This provides a good alternative to maintaining a needed but infrequently-used piece of equipment while providing the Streets and Drainage Division with access to a grader without the rental expense, which can be up to \$2,000 a day.

The Use Agreement allows A.M. Stephens, Inc., to purchase the grader for \$1,000. The estimated value of the grader in its existing condition is approximately \$4,000. In return, A.M. Stephens, Inc., agrees to perform all required maintenance and allow the Streets and Drainage Division to use the grader as needed at no cost. Should A.M. Stephens, Inc., no longer need the grader, it will be returned to the Streets and Drainage Division at no cost. The Use Agreement would be in effect through December 31, 2018, at which time it would be re-negotiated. If an agreement is unable to be reached, the grader will be returned in good operating condition and title released back to the City at no cost.

Although this action is not addressed by Lodi Municipal Code Chapter 3.20 (Purchasing System), Section 3.20.130 (Vehicle Purchases and Disposition Exemption), this section states, "The purchase and disposition of fleet vehicles and other specific equipment governed by the City's fleet policies and procedures, as adopted by resolution of the City Council, is exempt from the provisions of this chapter." Therefore, the disposition of this vehicle by sale via a Use Agreement is permitted by virtue of the exemption included in the Lodi Municipal Code and is recommended by staff.

FISCAL IMPACT: The \$1,000 received from A.M. Stephens, Inc., would be deposited to the Street fund, 3211. The impact of removing this road grader from the fleet saves the City \$350 per year in maintenance costs and allows the use of a road grader at no cost to the City.

FUNDING AVAILABLE: Not applicable.


F. Wally Sandelin
Public Works Director

Prepared by Curtis Juran, Assistant Streets & Drainage Manager
FWS/GMB/CS/dsg

cc: George M. Bradley, Streets & Drainage Manager
Curtis Juran, Assistant Streets & Drainage Manager

Dennis Callahan, Fleet and Facilities Manager

APPROVED: 
Blair King, City Manager

Statement of Sale and Use of 1956 Galion Road Grader

This Agreement entered into this _____ day of December, 2008, is between A. M. Stephens, Inc., of Lodi California and the City of Lodi. Upon signing this agreement A. M. Stephens will take possession of a 1956 Galion road grader ("Grader") currently owned by the City of Lodi. The following conditions will be the terms of this agreement:

1. The terms of this agreement shall be in effect until December 31, 2018, at which time it shall be re-negotiated. If the parties are not able to reach agreement, the Grader will be returned to the City of Lodi in good operating condition and title released back to the City from A. M. Stephens at no cost to the City of Lodi.
2. A. M. Stephens will pay \$1,000.00 to the City of Lodi.
3. The paperwork to transfer the title to A. M. Stephens, Inc., will be completed within ten (10) working days by A. M. Stephens, Inc.
4. All preventive maintenance and repair costs will be the responsibility of A. M. Stephens, and the Grader shall be maintained in good operating condition while in the possession of A.M. Stephens.
5. In exchange for the nominal fee charged to A.M. Stephens, the Grader shall be made available to the City of Lodi Streets & Drainage Division, at anytime, with a minimum of 24 hours notice, be in good operating condition, and at no cost to the City of Lodi.
6. In the event that A. M. Stephens is sold, or should they no longer have need for the grader, it will be returned to the City of Lodi Streets & Drainage Division in good operating condition and title released back to the City from A. M. Stephens at no cost to the City of Lodi.
7. In exchange for the transfer of title, A. M. Stephens HEREBY WAIVES AND RELEASES ANY AND ALL CLAIMS they have or may have in the future against the City of Lodi, its elected and appointed officials, officers, agents, employees and volunteers, for any loss, damage, or expense suffered from or relating to the Grader, due to any cause whatsoever, regardless of whether such injuries or property damage is caused in whole or in part by the active or passive negligence or the City of Lodi, its elected and appointed officials, officers, agents, employees, and volunteers.
8. This agreement constitutes the whole and only existing and binding agreement on the subject matter contained herein, superseding all prior understandings, if any, whether written or oral.
9. In the event that any legal action is necessary to enforce or interpret any provision of this agreement, the prevailing party in such action shall recover its costs and reasonable attorneys' fees.
10. This agreement shall bind the successors and assigns of the undersigned party.

CITY OF LODI, a municipal corporation

A. M. STEPHENS, INC.

BLAIR KING, City Manager

GREG STEPHENS

Attest: _____
RANDI JOHL, City Clerk

APPROVED AS TO FORM:

D. STEPHEN SCHWABER
City Attorney

RESOLUTION NO. 2008-239

A RESOLUTION OF THE LODI CITY COUNCIL
APPROVING SALE OF 1956 GALION ROAD
GRADER AND USE AGREEMENT

WHEREAS, the Streets and Drainage Division of the Public Works Department has a unique opportunity to remove a seldom-used but necessary piece of equipment from the fleet and still have an "as needed right of use. The 1956 Galion road grader (Vehicle Unit No. 04-029) is used just a few times a year but has proven to be a valuable asset when needed; and

WHEREAS, A.M. Stephens, Inc., of Lodi, proposed a **use** agreement by which it would take possession of the grader, provide all necessary maintenance, and make the grader available for the City's **use** when needed at no cost. This provides a good alternative to maintaining a needed but infrequently-used piece of equipment while providing the Streets and Drainage Division with access to a grader without the rental expense, which can be up to \$2,000 a day; and

WHEREAS, the use agreement allows A.M. Stephens to purchase the grader for \$1,000. The estimated value of the grader in its existing condition is approximately \$4,000. In return, A.M. Stephens, Inc., agrees to do all required maintenance and allow the Streets and Drainage Division to use the grader as needed at no cost. Should A.M. Stephens no longer need the grader, it will be returned to the Streets and Drainage Division at no cost; and

WHEREAS, the use agreement shall be in effect through December 31, 2018, at which time it shall be re-negotiated.

NOW, THEREFORE, BE IT RESOLVED that the Lodi City Council does hereby approve the sale of the 1956 Galion road grader in the amount of \$1,000 and authorize the City Manager to execute the use agreement with A.M. Stephens, Inc., of Lodi, California.

Dated: December 17, 2008

I hereby certify that Resolution No. 2008-239 was passed and adopted by the City Council of the City of Lodi in a regular meeting held December 17, 2008, by the following vote:

AYES: COUNCIL MEMBERS – Hitchcock, Johnson, Katzakian, Mounce, and Mayor Hansen

NOES: COUNCIL MEMBERS – None

ABSENT: COUNCIL MEMBERS – None

ABSTAIN: COUNCIL MEMBERS – None



RANDI JOHL
City Clerk